

STATE OF MICHIGAN  
COURT OF APPEALS

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TINA LARKINS,

Plaintiff-Appellant,

v

LUCILLE BENDER, d/b/a NORTHFIELD  
VILLAGE APARTMENTS,

Defendant-Appellee.

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UNPUBLISHED

May 5, 1998

No. 200836

Monroe Circuit Court

LC No. 96-004621 NO

Before: Saad, P.J., and Wahls and Gage, JJ.

MEMORANDUM.

In this slip and fall case, plaintiff appeals as of right from an order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm.

A trial court's decision regarding a motion for summary disposition is reviewed de novo on appeal. *Marcelle v Taubman*, 224 Mich App 215, 217; 568 NW2d 393 (1997). In reviewing a motion for summary disposition under MCR 2.116(C)(10), we consider affidavits, pleadings, depositions, admissions, and documentary evidence in a light most favorable to the party opposing the motion. *Marcelle, supra*, 224 Mich App 216-217.

Plaintiff alleges that the eroded ground next to the sidewalk where she fell constitutes a dangerous condition and that the open and obvious doctrine does not negate defendant's duty of reasonable care. In *Eason v Coggins Memorial Christian Methodist Episcopal Church*, 210 Mich App 261, 263-264; 532 NW2d 882 (1995), we held that "there is no duty to warn of open and obvious dangers unless the invitor anticipates harm to the invitee despite the invitee's knowledge of the defect." Plaintiff does not dispute that the eroded condition of the sidewalk is open and obvious, however, she contends that this doctrine does not negate defendant's duty of reasonable care. In *Bertrand v Alan Ford, Inc*, 449 Mich 606, 611; 537 NW2d 185 (1995), our Supreme Court stated that "if the risk of harm remains unreasonable, despite its obviousness or despite knowledge of it by the invitee, then the circumstances may be such that the invitor is required to undertake reasonable precautions."

Here, we find nothing that shows the sidewalk upon which plaintiff was injured was unreasonably dangerous. The sidewalk in question is wholly unremarkable. The affidavit of plaintiff's expert landscaper merely stated that the grounds around the sidewalk were poorly maintained; it does not constitute evidence that the sidewalk was unreasonably dangerous.

Affirmed.

/s/ Henry William Saad

/s/ Myron H. Wahls

/s/ Hilda R. Gage